

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

OCTAVIUS MILLER,

Defendant.

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**DECISION AND ORDER**  
11-CR-279S

1. On November 6, 2012, the Defendant entered into a written plea agreement (Docket No. 34 ) and pled guilty to Count 1 of the Indictment (Docket No. 9 ) charging a violation of Title 21 U.S.C. § 841(a)(1) (possession with intent to distribute 28 grams or more of cocaine base).

2. On November 6, 2012, the Honorable Hugh B. Scott, United States Magistrate Judge, filed a Report and Recommendation (Docket No. 35) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1) and Local Rule 59(b).

4. This Court has carefully reviewed *de novo* Judge Scott's Report and Recommendation, the plea agreement, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Scott's Report and Recommendation, and will accept Judge Scott's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 35) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Octavius Miller is accepted, and he is now adjudged guilty of Title 21 U.S.C. § 841(a)(1).

SO ORDERED.

Dated: November 30, 2012  
Buffalo, New York

s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court